

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

MARK NUNEZ, et al.,

Plaintiffs,

**DECLARATION OF
FRANK ALBERTS**

-against-

CITY OF NEW YORK, et al.,

Defendants.

11 Civ. 5845 (LTS)(JCF)

-----X

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

-against-

CITY OF NEW YORK and NEW YORK CITY
DEPARTMENT OF CORRECTION,

Defendants.

-----X

STATE OF NEW YORK)

:SS:

COUNTY OF BRONX)

Frank Alberts declares under penalty of perjury, pursuant to 28 U.S.C. §1746, that the following is true and correct:

1. I am an Assistant District Attorney with the Bronx County District Attorney's Office.
2. I have been asked by the City of New York to prepare the following declaration pertaining to Indictment Number 72379-23, which has been filed in the Bronx County Supreme Court, Criminal Term.
3. As such, I am familiar with the facts surrounding the underlying incident and investigation which resulted in Indictment Number 72379-23. This underlying incident, however, is still

the subject of an open criminal investigation by the Bronx County District Attorney's Office.

4. Moreover, while the investigation into the underlying incident is ongoing, the related criminal prosecution has been initiated and is currently pending against four individuals.
5. Therefore, at this juncture, disclosure of any documents pertaining to the underlying incident would impact the integrity of the Bronx County District Attorney's Office investigation and any resulting criminal prosecution.
6. To that end, and with respect to this investigation, my office will continue to work closely with the New York City Department of Investigations (DOI) and Correctional Intelligence Bureau (CIB). However, disclosure of documents pertaining to the underlying incident would reveal privileged and confidential investigative and law enforcement techniques which would result in a chilling effect on our anticipated prosecution. Additionally, the disclosure of materials involving this incident would also reveal and possibly compromise confidential sources, as well as prevent our office and its partner agencies from pursuing certain investigative avenues.

Francis Alberta

Date: September 15, 2023

Frank Alberts
Assistant District Attorney
Chief, Rikers Island Prosecution Bureau